

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Marion Nursing Center, Inc. and)	Civil Action No.: 4:13-cv-02953-RBH
Owens Enterprises, Inc.,)	
)	
Plaintiffs,)	ORDER
)	
Kathleen Sebelius, in her official)	
capacity as Secretary of the United)	
States Department of Health and)	
Human Services,)	
)	
Defendant.)	
)	

On Thursday, October 31, 2013, this Court held a hearing on short notice (during a break in a criminal trial) due to the urgent nature of the allegations in a verified complaint and accompanying affidavits. The Court granted the TRO and scheduled a hearing on the motion for preliminary injunction for Friday, November 8, 2013.

On Saturday, November 2, 2013, the undersigned drove his vehicle into a church parking lot which was having a car wash fund-raiser for a local youth baseball team to get his vehicle washed and make a donation. While there, the undersigned saw a first cousin, Rankin Harwell Hammond, who he does not see or speak to on a regular basis. She is a parent of one of the children on the baseball team and was helping with a bake sale for the team there. When I asked how she was doing, she responded that she was very busy dealing with Marion Nursing Center patients. I immediately told her I was assigned the case involving them and not to discuss it further with me. I was unsure of who she was presently employed by and what her position was, so I had my wife contact her mother, my aunt, to inquire. She advised on Sunday, November 3, 2013, that my cousin is presently employed with the Cook Brothers Corporation which is owned by two brothers who live in Lakeview and Dillon. I do not know my cousin's title, but it is my understanding that her

duties involve being responsible for filling the beds in the six nursing homes that the Cook Corporation owns.

While this would not affect my ability to be fair and impartial, 28 U.S.C. § 455(a), provides that “[a]ny justice, judge or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Based on the above information, the Court believes it should recuse itself from further proceedings.

The Clerk is instructed to immediately reassign the case due to the time sensitive issues involved and the pending preliminary injunction motion.

Florence, SC
November 4, 2013

s/R. Bryan Harwell
United States District Judge